

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
Civil Action No. 3:16-cv-564

TIMOTHY SCOTT BRIDGES,)
)
Plaintiff,)
)
v.)
)
CITY OF CHARLOTTE, LARRY SNIDER, in)
his individual and official capacities and in his)
supervisory capacity as the Capt. in charge of)
the Felony Investigations Bureau of the)
Charlotte Police Department, CHERYL)
HORNER, in her individual and official)
capacities, ELINOS WHITLOCK, in his)
individual and official capacities, and)
KATHLEEN RAMSEUR, in her individual and)
official capacities,)
Defendants.)
_____)

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, the Defendant, Cheryl Horner, in her individual and official capacities (“Horner”), hereby files this Notice of Removal to remove the captioned action from the General Court of Justice, Superior Court Division, Mecklenburg County, North Carolina, Case No. 16-CVS-8609, to the United States District Court for the Western District of North Carolina, Charlotte Division. The removal of this civil action is proper because:

1. This civil action was originally filed in the General Court of Justice, Superior Court Division, Mecklenburg County, North Carolina, Case No. 16-CVS-8609 (the “State Court Action”). Mecklenburg County is within the District of this Court.
2. On May 9, 2016, the Plaintiff filed the Complaint in the State Court Action.

3. A copy of the Summons and Complaint was served on Horner on June 21, 2016 through her undersigned counsel. Upon information and belief, the other defendants were served as follows:

- City of Charlotte on May 27, 2016
- Larry Snider on June 9, 2016
- Elinos Whitlock on June 11, 2016
- Kathleen Ramseur on June 13, 2016

4. A copy of the Summons and Complaint and all other process, pleadings and orders served on Horner in the State Court Action are attached hereto as Exhibit 1 pursuant to 28 U.S.C. § 1446(a).

5. This removal petition is timely filed within thirty (30) days after Horner was served with the Summons and Complaint. *See* 28 U.S.C. § 1446(b).

6. This Court has jurisdiction over this action because a federal question capable of creating federal-question jurisdiction under 28 U.S.C. § 1331 is clearly presented on the face of Plaintiff's Complaint. *See Donaldson v. City of Waltherboro Police Dept.*, 466 F.Supp.2d 677 (D.S.C. 2006). Specifically, the Plaintiff alleges that at least one defendant in this action "was deliberately and recklessly indifferent to [Plaintiff's] clearly established rights under the Fourteenth Amendment of the United States Constitution to due process of law and a fair trial." (Compl. ¶ 196).¹ Therefore, this action is suitable for removal under 28 U.S.C. § 1441.

7. Plaintiff also alleges several state claims connected by the same chain of events from which Plaintiff's federal claim rises. Plaintiff also seeks punitive damages. All of these

¹ Plaintiff's Complaint also makes allegations concerning, and appears to rely in part on, Superior Court Judge Lisa Bell's Consent Order purportedly concluding that "[Plaintiff's] conviction was obtained in violation of the due process clause of the Fourteenth Amendment to the Constitution of the United States." (Compl. ¶ 124). Moreover, though appearing under state claim titles in the Complaint, Plaintiff's allegations (1) raise the issue of deliberate indifference under the Fourteenth Amendment, (Compl. ¶ 187); and (2) include language traditionally used in attempts to defeat federal qualified immunity, (Compl. ¶¶ 143, 160, 175, 179, 184).

state claims are so related to the federal question asserted in Plaintiff's Complaint "that they form part of the same case or controversy under Article III of the United States Constitution." 28 U.S.C. § 1367(a). As such, the Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a), of the state law causes of action brought by Plaintiff in this lawsuit.

8. All defendants consent to the removal of this action.

9. Pursuant to 28 U.S.C. § 1446(d), contemporaneously with the filing of this Notice of Removal, Horner is filing with the Superior Court of Mecklenburg County the Notice of State Court Removal that is attached hereto. In addition, on this 21st day of July, 2016, Horner is serving a copy of this Notice of Removal on all counsel of record via United States Mail, first-class postage prepaid.

WHEREFORE, the Defendant, Cheryl Horner, in her individual and official capacities, having shown that the State Court Action is properly removable under federal question jurisdiction, respectfully requests the Court to exercise its jurisdiction over the State Court Action.

Respectfully submitted, this 21st day of July, 2016.

/s/ Jason R. Benton
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CERTIFICATE OF SERVICE

I hereby certify that on July 21, 2016, a copy of the foregoing **Notice of Removal** was filed electronically and served on all counsel of record for the parties via United States Mail, first-class postage prepaid as follows:

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